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**Before the
Federal Communications Commission**

Washington, D.C.

CC: 02-6

In the Matter of)
Request for Review of Decisions of the)
Universal Service Administrator and)
Request for Waiver)
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)
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_____)

Donna ISD

CC Docket No. 96-45

CC Docket No. 02-6

REQUEST FOR REVIEW AND WAIVER

Bill Sugarek
Integrity Communications
11028 Leopard Street
Corpus Christi, TX 78410
(361) 242-1000

April 8, 2011

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TABLE OF CONTENTS

Summary.....	3
I. Statement of Integrity’s Interest in this Request for Review and Waiver.....	7
II. Introduction.....	8
III. Statement of Facts	
A. Key Background Facts.....	9
B. Detail Background Facts.....	11
IV. Integrity Seeks a Limited Waiver of the Commission’s Rules.....	16
V. Conclusion and Request for Relief.....	19
VI. Exhibits.....	20

SUMMARY

Integrity Communications (Integrity) respectfully requests review of a decision of the Universal Services Administrative Company (USAC) and a waiver of the Federal Communications Commission's (Commission) rules.

Donna ISD filed E-Rate applications with USAC for funding cycles 5, 7 and 9 adhering to program rules. After stalled funding progress was experienced, Donna ISD board members went to Washington D.C. in early 2005 to meet with two congressmen and USAC senior officials. Donna ISD was ultimately funded cycles 5 and 7 appropriately shortly thereafter.

After USAC guidance and Donna ISD attorney consultation, the Donna ISD school board voted unanimously to do an operational Service Provider Identification Number (SPIN) change. Notices were sent to the affected Vendors per program guidelines and USAC approved Donna ISD's application for the SPIN change to Integrity.

Donna ISD's CFO was terminated in 2006 and subsequently went to the media and the Texas Education Agency (TEA) and made numerous false allegations against Donna ISD. Unfortunately TEA did a poor job of investigating these allegations and made numerous mistakes in their report. Of the nine separate alleged offenses addressed in TEA's report, only one pertained to the E-Rate program which proved to be false or at best inaccurate.

Donna ISD subsequently had all funding by USAC stopped and just recently had seven Funding Request Numbers (FRN's) for cycles 5 and 7 rescinded, demanding Donna ISD repay approximately \$6,000,000.00 of previously allocated funds; reason given: "violation of state procurement rules".

The CFO "whistleblower" was later declared by the court to be a liar; therefore, the lawsuit filed against Donna ISD was thrown out. TEA found Donna ISD to have properly procured cycles 5 and 6. Further revelations from Texas State E-Rate Coordinator Cathey George reveled that Donna ISD did, in fact, comply with Texas state rules and properly performed the SPIN change since no re-bid was required.

According to testimony from the Donna ISD superintendent, technology director, former TEA Senior Counsel David Thompson, and Texas E-Rate Coordinator Cathey George, and Donna ISD's board meeting minutes, all local, state, and federal rules were complied with. Any mistakes or errors, if indeed any were committed, were merely procedural in nature or due to misguidance or misunderstandings from USAC, TEA, or legal counsel.

Integrity now files this appeal seeking relief from the Commission. In Adams County School District Order dated March 22, 2007 released March 28,2007 (Adams, 20 FCC Rcd 6019, ¶ (2007) the petitioners were granted waivers of the Commissions rules since there was no misuse of funds, there was no evidence of any deliberate activity to defraud or abuse the E-Rate program, that denying their requests for funding would create undue hardship, and that the departure is warranted and in the public interest.

Donna ISD is a similarly situated applicant and Integrity requests the Commission extend the same relief to Donna ISD and grant this request for appeal and waiver. We pray that the following documents and evidence proves, like the Adams County case, Donna ISD committed no misuse of funds, engaged in no activity to defraud or abuse the E-Rate program, that denying this request for funding would create undue hardship, and that the departure from prior Bureau precedent is warranted and in the public interest. We respectfully request the Commission extend the same relief to Donna and grant this instant Request for appeal and waiver.

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REQUEST FOR REVIEW AND WAIVER

Bill Sugarek
Integrity Communications
11028 Leopard Street
Corpus Christi, TX 78410
(361) 242-1000

April 8, 2011

REQUEST FOR REVIEW

Integrity Communications (Integrity) respectfully submits this request for review and waiver seeking reversal of seven decisions made by the Schools and Libraries Division (SLD) of the Universal Services Administrative Company, (USAC or Administrator) rescinding seven funding request numbers (FRNs) (Five FRNs for cycle 5, which were rescinded on February 10, 2011, One FRN for cycle 7, which was rescinded on February 10, 2011 and one FRN for cycle 7 which was rescinded on February 16, 2011).¹

I. STATEMENT OF INTEGRITY'S INTEREST IN THIS REQUEST FOR REVIEW AND WAIVER

Integrity is standing to file this appeal based on § 54.719(c) of the Commission, which provides that, "any person aggrieved by an action taken by as division of the Administrator may seek review from the Federal Communications Commission". In this case, Integrity is directly aggrieved by USAC's rescinding of the seven referenced FRNs because Integrity is Donna ISD's service provider.²

¹ Exhibit 1: 7 Rescinding letters from USAC

² Exhibit 1: 7 Rescinding letters from USAC

II. INTRODUCTION

This is a case of a South Texas school district, Donna ISD, having multiple FRNs rescinded by USAC. Donna ISD properly and legally procured cycle 5 and 7 internal connections contracts and applied for E-Rate funding. USAC ultimately approved said applications after which a procedural service provider identification number (SPIN) change to Integrity was requested and approved by USAC.

After a sequence of events took place involving multiple parties and individual agendas by disgruntled employees and news media, false allegations were made raising questions to the validity to procurement procedures.

Ultimately, and after the majority of the work and services had been completed and monies paid out, USAC rescinded the funding demanding and requiring full repayment of approximately \$6,000,000.00 to USAC and subsequently the balance owed Integrity.

This action has seriously aggrieved Donna ISD and Integrity. Integrity intends to provide evidence that (1) no bidding violations ever occurred. (2) The 3 years in question were properly procured according to local, state, and federal rules. (3) The SPIN changes for cycles 5 and 7 in question were done properly and in the same manner that numerous other SPIN changes for other school districts in Texas have been done. (4) That all funds were used in compliance with FCC requirements. (5) That no waste, fraud, or abuse was committed. (6) That Donna ISD and Integrity made every effort to comply with all applicable rules and regulations of the program. (7) That if not overturned, this action will cause undue hardship and irreparable harm to Donna ISD, thousands of needy children, taxpayers, and Integrity by preventing badly needed E-Rate funding. (8) That good cause of a waiver of the Commissions rules reversal of USAC's decision would be in the public's best interest.

III. STATEMENT OF FACTS

A. Key Background Facts

- Spring of 2006: Donna ISD dismissed business manager who subsequently went to TEA with false allegations against Superintendent Joe D. Gonzales and Integrity Communications.
- TEA did a careless, incomplete investigation (didn't get copy of school board meeting minutes or audio tapes re: E-Rate issues in question).
- TEA final report contained nine concerns, of which one involved state procurement compliance, re: E-Rate matters. That concern read "Donna ISD did not competitively procure three federal grants and matching state monies according to federal and state regulations."
- TEA's findings were based upon inaccurate, incomplete research and contained numerous errors. TEA also capriciously and erroneously named Integrity in the report, with incorrect findings that Integrity had been wrongfully awarded E-Rate contracts.
- Integrity, represented by David Thompson of Bracewell, Giuliani Law Firm, and former TEA general counsel, had an informal hearing with TEA on August 10, 2007. Facts were presented and ultimately TEA issued a letter directly to Integrity stating: "Nothing in the agency report implied or should be construed to imply anything about the actions of Integrity Communications."
- David Thompson presented further evidence along with findings that would clear Donna ISD of alleged incompliance (which TEA failed to discover). At this time, TEA informed Mr. Thomson they would not discuss the issue further with him and that Donna ISD would need to pursue the matter themselves.

- TEA Findings: List of discrepancies and errors regarding E-Rate.
- Original findings: “Original E-Rate Year 5 was properly procured under the state and federal regulations but was denied by USAC.” This is correct.
- “During fiscal year 2004, Donna ISD applied for cycle 7 funding and reapplied for cycle 5. Donna ISD followed federal and state procurement regulation.” This is correct.
- “The district was again denied cycle 5 funding but allowing an appeal was awarded cycle 5 and 7.” This is INCORRECT.
- Cycle 5 was not denied a second time. USAC had simply not acted on either application. Joe D. Gonzales and two school board members along, with Integrity personnel went to Washington D.C. and met with Scott Barash and Mel Blackwell at Congressman Ortiz’s office. Congressman Hinojosa had stag members present during the meeting. Congressman Hinojosa made a brief appearance and encouraged USAC to resolve the matter. Mel Blackwell openly admitted that USAC had made mistakes and apologized. Within two weeks, both cycle 5 and 7 funding applications were granted approvals. Lastly, during the meeting, the topic of SPIN changes were discussed; both Mr. Barash and Mr. Blackwell told the superintendent and the board members present that Donna ISD was not required to re-bid if a SPIN change was conducted.
- The report stated that upon awarding cycle 5 and 7 projects to Integrity, “the board failed to rescind original contracts and that new contracts had not been competitively procured according to state and federal regulations.” This is INCORRECT.
- School board minutes and audiotapes of the board meeting clearly demonstrate that the board acted in good faith and within state and federal regulations. Furthermore, in a subsequent board meeting, Ms. Cathey George, Texas E-rate State Coordinator, was

asked specifically how to conduct a SPIN change in order to comply with state regulations. Ms. George explained procedures that had mirrored Donna ISD's already approved and processed SPIN changes in question. When asked if applications were required to be re-bid, Ms. George stated: "No, you do not re-bid on a SPIN change."

- Year 9 Funding was not competitively procured as by state and federal regulations. This is INCORRECT.
- In TEA's final report dated July 10, 2007, TEA states: "E-Rate cycle 5 funding was procured as required under state and federal regulations. E-Rate cycle 7 followed state and federal procurement regulations." Cycle 9 was procured exactly as cycle 5 and 7, however; TEA stated that Donna ISD did not follow state and federal procurement regulations. When David Thompson, former TEA General Counsel now representing Integrity, presented these facts to TEA, again they would not discuss it further with him.³

B. Detail Background Facts

Donna ISD properly procured, and was ultimately funded by, USAC years 5 and 7 E-Rate cycles in 2005.⁴ After consultation with Scott Barash and Mel Blackwell from USAC, Donna ISD legal counsel, and then Donna CFO, the Donna ISD board of directors voted unanimously to do a SPIN change on several FRN's to Integrity.⁵ The appropriate vendors were notified in writing, per FCC rules and regulations and a SPIN change request was sent to USAC.⁶ State and

³ Exhibit 6: DISD Board Meeting minutes, e-mail correspondence

⁴ Exhibit 2: Texas Education Agency "TEA"; Donna ISD Investigation Concerns

⁵ Exhibit 3 & 4: July 21, 2005 DISD Board Meeting Minutes

⁶ Exhibit 5: FedEx Airbill

local rules, as well as the existing contracts, allowed for the SPIN change. USAC approved the SPIN change and Integrity began work shortly thereafter. Donna ISD's CFO was dismissed the following year and immediately went to several local media stations, as well as TEA, and falsely alleged that Donna ISD gave Integrity several multi-million dollar projects without going out for bids. The media articles were anonymously sent to USAC. The subsequent TEA investigation addressed nine different allegations of which only one had anything to do with E-Rate.

Integrity hired former TEA Senior Counsel David Thompson to defend against these false allegations. Integrity personnel and Mr. Thompson met with the TEA commissioner and general counsel, and satisfactorily cleared Integrity's name,⁷ and proved that Donna ISD had committed no wrong-doing, but was unable to legally represent Donna ISD at that time without an engagement letter. No further action on Integrity's part was done regarding TEA.

Documents were provided to TEA from Donna ISD proving that all procurement laws were followed and that no wrongful or illegal acts were committed.⁸ TEA stated that they didn't understand the E-Rate program and did not research the matter in depth.

Mr. Thompson was informed by a TEA representative that TEA wasn't going to pursue the E-Rate portion of the report (which included eight other unrelated topics) any further since the projects in question were virtually complete. The former CFO filed suit against Donna ISD for unrelated reasons, but was ultimately discredited and the case was thrown out of court.⁹

In January of 2008, the Donna ISD school board invited the "Texas State E-Rate Coordinator", Cathey George, to give a presentation and Q&A session to the board. During this presentation, Ms.

⁷ Exhibit 7: TEA Correspondence

⁸ Exhibit 8: Donna correspondence re: TEA Initial Audit Report

⁹ Exhibit 9: News report discrediting whistleblower

George was specifically asked about the bidding process on a SPIN change. Her answer was clear and specific.

Board Member: "One quick question then... hopefully you can clarify something that's been confusing, at least to me, uh, the entire time. You mentioned before that a SPIN change is legal and permissible within the rules.

Cathey George: "Yes."

Board Member: "OK, if the competitive bidding happens at the front end of this process..."

Cathey George: "Sometimes a year, year and a half outside when you're gonna really buy..."

Board Member: "Right, and so this SPIN change happens after that, then how do you re-visit that...other than, than... I mean, I guess my initial understanding, and a complete novice in this was that the fact that it had been competitively bid at the front end and that's what was submitted. But a SPIN change, when they spin in, all they're able to do is to match what was already approved under the previously competitively bid, um in ah... whatever had been awarded. And so that there was not a new need to go out and re-competitively bid again on a SPIN change. But, that's where I've never understood, and can you shed any light on that?

Cathey George: "According to program rules, you may change vendors; provided you meet all the program rules, in which there are thr-, really three basic ones. That you meet all those program rules, you may change to another vendor. That vendor must take all of the requested information... all of the request items, and they must be able to five exactly the same service, the same like kind, quality and access. For the same, no more price. Unless the school district says I'll pay more money, but this is all I can get from USAC. So if I ask for three switches..."

Board Member: (speaking over Cathey George) "But there wouldn't be a new..."

Cathey George: "... then this new person's gonna have to give me three swi..."

Board Member: (speaking over Cathey George) "But you wouldn't re-competitively bid..."

Cathey George: "No you don't..."

Board Member: (speaking over Cathey George) "...because...ok...that's what I wanted to know..."

Cathey George: "No you do not."

(A full written copy¹⁰, as well as a recording on CD¹¹ of the Board dialog with Ms George, explaining the Texas State bidding rules is enclosed with this appeal).

USAC sent Donna ISD five separate "Commitment Adjustment Letters" dated February 10, 2011 for funding year 2002, and one "Commitment Adjustment Letter" dated February 10, 2011 for funding year 2004, and one "Commitment Adjustment Letter" dated February 16, 2011 for funding year 2004, rescinding multiple FRNs in full. The reason given by USAC for their decision to rescind the funding is: "During an audit, it was determined that you did not comply with Texas State Government Code 2157.0611 that required the evaluation of 3 bids for purchases exceeding \$2,000..." We contend this reason is invalid and incorrect. Donna ISD did, in fact, comply with Texas State Government Code 2157.0611 as is testified to by the enclosed TEA report. These E-Rate years were initially properly procured, as is stated by TEA in their report to Donna ISD.

As stated by Texas State E-Rate coordinator Cathy George, you DO NOT re-bid when doing a SPIN change. There have been a large number of SPIN changes performed in the state of Texas and approved by USAC over the life of the program using these exact same procedures with no re-bidding done or required by USAC or the TEA. It could further be argued since there were numerous discrepancies and inconsistencies (see Donna's responses to TEA) in the TEA final report, and in light of the TEA's own admission, that they didn't really understand the E-Rate program.

Donna ISD properly procured the three years in question by following all local, state, and federal rules and regulations. AFTER having had the applications funded by USAC, Donna ISD attempted full due diligence to insure proper procedures were followed and local, state, and federal rules were kept when requesting and being granted SPIN changes on cycles 5 and 7.

IV. INTEGRITY SEEKS A LIMITED WAIVER OF THE COMMISSIONS RULES

Integrity now files this appeal seeking relief and/or a waiver of the rules from the Commission. Evidence herein shows that, without a doubt Donna ISD personnel and board members sought and received USAC General Counsel's advice and instructions, local school counsel's advice and instructions, Texas State E-Rate Coordinators advice and instructions and made every concerted, good faith effort to follow and adhere to all pertinent rules and regulations. Furthermore, no "waste, fraud, or abuse" of the program was committed, since the exact dollar amount and like services were delivered, as per FCC guidelines.

In keeping with the spirit of diligently administering the E-Rate program, USAC had a responsibility to ensure no "waste, fraud, or abuse" had occurred in these instances due to inaccurate, unsubstantiated news articles published by local news agencies. Ultimately, no evidence was found to substantiate any wrongful acts with the intent to commit any type of "waste, fraud, or abuse" of the program, or any involved entities or individuals. There is no evidence in record that any involved entities or individuals engaged in any activity to defraud or abuse the E-Rate program.

Donna ISD is a poor school district in South Texas with limited financial resources and a high number of underprivileged and impoverished students. Thousands of needy students are being deprived of much-needed technology and are now being left behind in the fast paced technology world. Consequently, these students are enduring severe and undue hardships due to the lack of Donna ISD's ability to take advantage of the resources designed by the FCC to enable these deserving students.

Integrity asks the Commission to review the attached documents and relevant facts and conclude that no program rule violations were committed. We further ask that the Commission see that Donna ISD staff made every possible concerted effort to ensure complete compliance with the program rules. Only after board consultation with USAC senior officials, Donna ISD CFO and legal counsel, discussions with technology staff, and board approval, did the SPIN changes occur with subsequent Texas State E-Rate Coordinator confirming no re-bidding is required.

If, in fact, the Commission concludes that a program rule was indeed some how broken (of which no rule has been addressed with Donna ISD) and the fact that no misuse of funds or any “waste, fraud, or abuse” occurred, we respectfully ask the Commission to “waive” the rule in the spirit of fairness and that “such deviation would better serve the public interest”. The Commission’s rules allow waiver of a Commission rule “for good cause shown.” The Commission has established the following guidance for determining whether waiver is appropriate:

“A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule”. (47 C.F.R 1.3.)

Finally, Integrity maintains the position that all funds received from USAC were used properly and for appropriate purposes. Denial of this request is not in the public interest and would create undue hardship on an already depressed, economically distressed school district. Furthermore, denial of this request will prevent this otherwise eligible school from receiving E-Rate funding. Thousands of deserving school children will be deprived of essential technological resources

necessary for success in higher education and will lack the ability to compete in future occupational endeavors.

V. CONCLUSION AND REQUEST FOR RELIEF

Integrity respectfully requests the Commission to waive the rules to the extent required and grant this appeal, direct USAC to reinstate Donna ISD's cycle 5, 7 and 9 E-Rate projects and allow the completion of same projects. We further respectfully request that the Commission direct USAC to act expediently (60-90 days) in this matter and to pay all outstanding invoices pending for funding cycles 5 and 7, and to fund years 2006 and 2007.

Respectfully Submitted,



Bill Sugarek
Integrity Communications, Ltd.
11028 Leopard Street
Corpus Christi, TX 78410
(361) 242-1000

April 8, 2011

VI. Exhibits

1. 7 Rescinding Letters From USAC Dated February 10 & 16, 2011
2. Texas Education Agency “TEA”; Donna ISD Investigation Concerns
3. July 21, 2005 DISD Board Meeting Minutes Voting On SPIN Changes
4. July 21, 2005 DISD Board Meeting Minutes Including All Agendas
5. FedEx Air Bill/Notification Letters to Vendors re; SPIN Changes
6. DISD Board Meeting Minutes, E-mail Correspondence
7. TEA Correspondence re; Whistleblower Allegations
8. Donna Correspondence re: TEA Initial Audit Report
9. News Report Discrediting Whistleblower
10. January 15, 2011 DISD Board Meeting with Cathey George (transcribed)
11. January 15, 2011 DISD Board Meeting with Cathey George (CD Audio)

Exhibit 1



Universal Service Administrative Company

Schools and Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2004: July 1, 2004 - June 30, 2005

February 10, 2011

Delma de la Pena

DONNA INDEP SCHOOL DISTRICT

116 North 10th Street

Donna, TX 78537 2702

Re: Form 471 Application Number: 425806
Funding Year: 2004
Applicant's Form Identifier: FY2004-471-3-108902
Billed Entity Number: 141639
FCC Registration Number: 0005007414
SPIN: 143018592
Service Provider Name: Integrity Communications

Service Provider Contact Person: Edwin Mickley IX

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

Funding Commitment Adjustment Report for
Form 471 Application Number: 425806

Funding Request Number: 1177539
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143018592
Service Provider Name: Integrity Communications
Contract Number: GDS-DISD-450A
Billing Account Number: 9364641622
Site Identifier: 141639
Original Funding Commitment: \$94,333.47
Commitment Adjustment Amount: \$94,333.47
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$94,333.47
Funds to be Recovered from Applicant: \$94,333.47

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. On your request for an operational SPIN change submitted on September 2, 2005 to USAC, you certified that the SPIN change requested was allowed under all applicable state and local procurement laws. During an audit, it was determined that you did not comply with Texas State Government Code 2157.0611 that required the evaluation of three bids for purchases exceeding \$2,000, or documentation explaining why three bids could not be obtained. Since you failed to follow the applicable state procurement rules, the approved SPIN change is deemed invalid. Accordingly, your funding commitment will be rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.



Universal Service Administrative Company

Schools and Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2002: July 1, 2002 - June 30, 2003

February 10, 2011

Marie L. Evans

DONNA INDEP SCHOOL DISTRICT

116 N 10TH ST

DONNA, TX 78537 2702

Re: Form 471 Application Number: 437252
Funding Year: 2002
Applicant's Form Identifier: REFILE-FY02-471-7-108902
Billed Entity Number: 141639
FCC Registration Number: 0005007414
SPIN: 143018592
Service Provider Name: Integrity Communications

Service Provider Contact Person: Edwin Mickley IX

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

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Funding Commitment Adjustment Report for
Form 471 Application Number: 437252

Funding Request Number:	1215900
Services Database:	INTERNAL CONNECTIONS
SPIN:	143018592
Service Provider Name:	Integrity Communications
Contract Number:	AVN-DISD-040412-466
Billing Account Number:	9564641622
Site Identifier:	141639
Original Funding Commitment:	\$264,167.44
Commitment Adjustment Amount:	\$264,167.44
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$205,459.90
Funds to be Recovered from Applicant:	\$205,459.90

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. On your request for an operational SPIN change submitted on September 2, 2005 to USAC, you certified that the SPIN change requested was allowed under all applicable state and local procurement laws. During an audit, it was determined that you did not comply with Texas State Government Code 2157.0611 that required the evaluation of three bids for purchases exceeding \$2,000, or documentation explaining why three bids could not be obtained. Since you failed to follow the applicable state procurement rules, the approved SPIN change is deemed invalid. Accordingly, your funding commitment will be rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.